

Legal framework and regulatory challenges of multinational corporations

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Abstract

This paper analyzes the legal structure and operations of multinational corporations (MNCs) operating across multiple legal jurisdictions. Although MNCs are legally decentralized, their management is centralized, raising questions regarding the liability of the parent company for the actions of its subsidiaries. The focus is on the legal mechanisms regulating MNCs within the Bosnian-Herzegovinian (BiH) legislation, EU legal acts, and OECD guidelines. In BiH, the legal framework is fragmented and requires harmonization between the state and entity levels. The European Union (EU) employs the Treaty on the Functioning of the EU, directives, and regulations to ensure a balance between market freedoms and legal oversight. In conclusion, the paper highlights the need to strengthen both international and domestic legal frameworks to achieve greater transparency, corporate accountability, and compliance of MNCs with global market regulations.

Keywords: Multinational corporations, Legal responsibility, Regulation, European Union, Tax transparency

Introduction

MNCs represent a specific form of business organization that transcends national borders, consisting of multiple legally independent entities registered in different countries. Each member of this business group operates according to the legal system of the country in which it is established and possesses its own legal personality. Although formally separate, these companies function as a single, economically integrated entity, most often managed by a parent company headquartered in one jurisdiction (Muchlinski, 2021). Due to their operations spanning multiple countries, MNCs operate within various legal systems, requiring continuous compliance with diverse legislations, regulatory standards, and tax regimes. Management is typically centralized within the parent company, while legal obligations and responsibilities are operationally delegated to local legal entities (OECD, 2023). A particularly sensitive issue in the legal analysis of MNCs concerns the scope and limits of the parent company's liability for the activities and potential unlawful conduct of its subsidiaries. Although formally legally separate, in practice, there is increasing scrutiny of the actual level of control exercised by the parent company over its affiliates, which has become a critical issue in international law, case law, and regulatory policy (Marković-Bajalović, 2021). While MNCs do not enjoy the status of subjects of international public law, they exert significant cross-border influence. Their role in contemporary

globalization, international trade, foreign investment, and technology transfer makes them key actors in the global economy. However, this role raises complex issues related to legal regulation, liability, and the harmonization of normative frameworks across different legal systems, representing one of the major challenges of modern international economic law (Neira, 2019). The purpose of this paper is to analyze the legal structure and operations of MNCs through the lens of their multi-jurisdictional nature and functional integration. Special emphasis is placed on challenges relating to corporate governance, allocation of liability, and regulatory compliance within the international legal environment. Practical examples will be provided throughout the paper. Beyond legal challenges and management complexity, multinational corporations face significant social and ethical issues. Their business practices often have far-reaching impacts on local communities, working conditions, and the environment. MNCs are frequently criticized for exploiting lower labor standards and less regulated markets in developing countries, which can lead to violations of workers' rights and environmental degradation. On the other hand, these companies have the potential to positively influence communities through investments in education, healthcare, and infrastructure projects. For this reason, corporate social responsibility (CSR) has become an increasingly important aspect of MNC operations, where companies are expected to apply ethical principles and socially responsible practices not only in their home countries but also in all jurisdictions where they operate. An important aspect of MNC analysis relates to business transparency. Given the complex corporate structures and numerous legal entities, it is often difficult to track capital flows, transfer pricing, and the actual economic activity within the group. This can result in issues such as tax optimization and avoidance, which undermine the public finances of host countries. International mechanisms, such as OECD guidelines and initiatives for tax information exchange, aim to increase transparency and accountability of MNCs and enable states to exercise more effective control and ensure a fairer distribution of tax revenues. However, aligning these mechanisms with local legislation often represents a challenge, especially in legally complex and institutionally weaker states. Furthermore, technological integration and innovation brought by MNCs to host countries constitute another important factor. Many multinational companies invest significant resources in research and development, which can have a positive effect on technology transfer and the competitiveness of the local economy. However, this process requires active participation and support from the state through adequate infrastructure, education, and legislation that fosters innovation while protecting intellectual property. Without such conditions, host countries may remain on the periphery of global technological flows. Finally, the global economy is rapidly evolving under the influence of digitalization, climate change, and new societal expectations. In the future, MNCs will increasingly need to adapt their business models to respond to these challenges, which will require further adjustments to legal systems. Greater attention will be devoted to issues of sustainable development, human rights protection, and supply chain transparency. Therefore, the legal framework regulating MNC operations must be flexible yet sufficiently robust to ensure a balance between business freedom and social responsibility. Taking all this into account, it is clear that multinational corporations are indispensable actors in the modern global economy but also represent a complex challenge for legal and regulatory systems worldwide. Their effective and responsible integration into domestic economies requires ongoing dialogue among governments, the private sector, and international organizations, as well as the development of integrated approaches encompassing the legal, economic, and social dimensions of business activity.

1. Methodology

This paper employs a descriptive-analytical methodology aimed at examining the legal nature, structure, and regulation of MNCs through a review of relevant domestic, European, and international sources. The research is primarily qualitative in nature, relying on legal analysis of normative acts, case law, and academic literature, with particular focus on practical cases from the EU and BiH. Primary sources include positive

legal norms such as EU treaties and legislative acts (TFEU, directives, regulations), laws of BiH, and guidelines issued by international organizations (OECD). Secondary sources encompass scholarly articles, commentaries, case studies, and analyses that provide deeper insight into the legal implications of MNC operations. A comparative legal method is used to highlight the similarities and differences between legal systems, especially regarding the liability of parent companies for the actions of their subsidiaries. The paper analyzes legal challenges, regulatory approaches, and institutional responses, and aims to identify shortcomings in the existing legal framework, as well as potential directions for its development. In addition to the legal-analytical approach, this paper also takes into account the economic and social dimensions of MNC operations, as their impact is not limited solely to legal aspects but extends to broader social and economic issues. Special attention is given to the challenges of harmonizing different legal systems within the EU and BiH, as well as the importance of international and regional cooperation among regulatory bodies for effective monitoring and control of MNC activities.

2. Legal Characteristics of Multinational Corporations - A Practical Example

MNCs represent key actors in the modern global economy, yet their legal nature remains complex and multilayered. Studying the legal features of MNCs requires a multidisciplinary approach that considers both domestic and international law. Firstly, the legal personality of an MNC is reflected through its individual members, subsidiaries registered in different countries. Each of these legal entities possesses autonomy in terms of contracting, litigation, and assuming legal liability, in accordance with the legal system of its host country. However, the MNC group as a whole does not enjoy separate legal personality; it is primarily perceived as a functional and economic unit. Since they operate across multiple legal frameworks, MNCs are compelled to adapt their business practices to diverse legislative systems, regulatory regimes, and tax policies. This mode of operation creates additional legal challenges and increases the risk of legal uncertainty. Despite their legal decentralization, MNCs typically maintain centralized management, meaning strategic decisions are made by the parent company. Nevertheless, legal obligations and liabilities are borne by the local subsidiaries. This raises a fundamental legal question: to what extent can the parent company be held liable for the wrongful acts or regulatory breaches committed by its subsidiaries? The answer varies depending on the national legal system and is often shaped by case law and international legal standards. In conclusion, MNCs are recognized as dominant economic actors in the global market, but their legal status remains complex. The interplay of national jurisdictions, legal system divergences, and varying standards of liability make MNCs particularly challenging subjects for legal regulation, necessitating further attention from legal scholarship. The relationship between China and the United States in the field of multinational corporations (MNCs) is one of the most important and complex in the global economy. These two powers represent the largest economies in the world, and their mutual economic and trade ties shape the rules of the game for international business and global value chains. Over the past few decades, China has become a global center for manufacturing and technological development, attracting numerous American and other multinational corporations with its large market, relatively low production costs, and strategic infrastructure investments. American companies have significant operations in China, where they manufacture, sell, and develop their products. On the other hand, Chinese multinational companies are increasingly present in the global market, expanding their business operations into the United States as well. However, the relationship between China and the U.S. regarding MNCs is not without tensions. Issues such as intellectual property, market access, state subsidies, and national security are often sources of conflict. At the same time, China seeks to develop its own technological capacities and reduce dependence on American technologies through initiatives like "Made in China 2025" and investments in research and development. These policies further complicate the business environment for American and other foreign multinational companies operating in China.

Despite these challenges, the economic interdependence between China and the U.S. remains deep and significant. MNCs on both sides strive to find a balance between exploiting market opportunities and managing political risks. Global value chains have become complex and integrated, making their separation or relocation costly and difficult. The relationship between China and the U.S. regarding multinational corporations reflects a broader geopolitical and economic rivalry but also a need for cooperation. Proper management of this relationship is crucial for the stability of the global market, innovation, and the sustainable development of international trade. Although China is rapidly strengthening its economic power and presence of multinational corporations, the United States still maintains a leading position in the global economy. The United States has long been a global leader in innovation, entrepreneurship, and technological advancement, setting standards that shape industries worldwide. Its dynamic economy and strong institutions continue to drive growth, create opportunities, and inspire progress across the globe.

2.1. Legal Framework for MNCs in BiH

BiH as a country with a complex politico-legal structure, offers a specific legal framework for the operations of MNCs. This framework encompasses a range of laws at both the state and entity levels, regulating different aspects of business conduct within the country. At the state level, key legislation includes the Law on Customs Policy, governing import-export procedures, and the Law on Competition, aimed at maintaining fair market competition. The Law on the Prevention of Money Laundering and Terrorist Financing plays a crucial role in ensuring transparency in financial flows and preventing misuse within the financial system. The Law on Banks regulates banking operations, essential for MNCs engaged in cross-border financial transactions. The Law on Foreign Investment provides a legal framework for market entry and operation of foreign investors, creating a favorable business environment for MNCs. The Law on Intellectual Property ensures protection of innovation and trade secrets. At the entity level, the legal framework becomes more fragmented. Laws on Business Companies govern the establishment, operation, and dissolution of companies, directly affecting the legal status of MNC subsidiaries. Profit tax and VAT regulations differ between FBiH and RS, requiring MNCs to align business practices with the specific tax regimes of each entity. Labor laws in both FBiH and RS regulate employment rights and obligations, shaping working conditions within MNC subsidiaries. Environmental protection laws, enforced at the entity level, are also critical, especially for MNCs seeking to conduct operations in a sustainable and ecologically responsible manner. In summary, the legal framework for MNCs in BiH is complex and multilayered. It demands a high level of legal compliance at both the state and entity levels, representing both a regulatory challenge and an opportunity for MNCs to operate within a diverse legal and economic environment. BiH, as a country with a complex politico-legal structure, provides a specific legal framework for the operation of MNCs. In addition to laws at the state and entity levels regulating various aspects of business, MNCs also face administrative challenges due to the divided competencies between state, entity, and local authorities, which can slow down processes and require extra attention in planning. Political instability and frequent changes in government further affect the legal certainty and predictability of the business environment, posing a significant risk for investors. Also, due to the entity division, there is no unified market, so MNCs must align their business models with different regulatory requirements within the same country. The impact of international agreements such as CEFTA and the Stabilization and Association Agreement (SAA) with the EU opens additional opportunities for MNCs but simultaneously requires harmonization of domestic regulations with international standards. However, underdeveloped infrastructure in some parts of the country, as well as limited legal capacities for effective law enforcement, represent additional obstacles to doing business. Ultimately, the success and long-term stability of MNC operations in BiH depend on progress in political and economic reforms that improve legal certainty, reduce corruption, and create a more favorable investment climate.

2.2. Regulation of Multinational Corporations under the Treaty on the Functioning of the European Union

The Treaty on the Functioning of the European Union (TFEU) serves as the foundational legal framework for the functioning of the EU internal market and contains a number of provisions that directly or indirectly affect the operations of multinational corporations (MNCs). Although MNCs are not explicitly defined within the Treaty itself, their activities are regulated through principles such as freedom of movement, prohibition of monopolistic practices, control of state aid, and the protection of market competition (Craig & de Búrca, 2020). Article 49 TFEU guarantees the freedom of establishment for legal entities from EU Member States, allowing MNCs to open subsidiaries throughout the Union. Similarly, Article 63 ensures the free movement of capital, which is essential for the financial operations of MNCs across multiple jurisdictions (Barnard, 2022). The market behavior of MNCs is governed by Articles 101 and 102 TFEU, which prohibit cartel agreements and the abuse of dominant market positions. This is particularly relevant for MNCs with significant market shares that could potentially distort competition within the EU (Whish & Bailey, 2021). Of particular importance is Article 107 TFEU, which addresses the prohibition of unlawful state aid. The European Commission applies this provision to assess whether certain Member States provide unfair tax advantages to MNCs. Through its general provisions, the TFEU creates a legal framework that enables the free movement and operation of MNCs, while simultaneously ensuring control mechanisms that protect market competition and prevent abuse. Although no unified legal regime exists exclusively for MNCs, the combination of rules governing market freedoms and competition law constitutes an effective system of legal regulation for their activities. Within the EU legal system, alongside the TFEU, other legal sources such as directives and regulations play a significant role in complementing the basic provisions of the treaties. Directives, for example, set minimum standards that member states must implement into their national legal systems, while regulations have direct application and are binding in all member states. Directives and regulations governing consumer protection, data protection (such as the GDPR), and corporate law are particularly important, as they shape the business environment in which MNCs operate.

2.3. Legal Framework of the European Union for Regulating Multinational Corporations

Multinational corporations (MNCs) pose a challenge for legal regulation due to their cross-border structures and ability to operate in multiple jurisdictions simultaneously. EU employs a combination of legal instruments, directives, regulations, and guidelines, to establish uniform business rules, protect market competition, and ensure legal certainty within the single market. EU regulations are directly applicable in all member states and are particularly important for MNCs because they provide a harmonized legal foundation. One of the key regulations is Regulation (EU) 2019/452 on the screening of foreign direct investments, which enables the EU to monitor strategic sectors and the impact of foreign MNCs on security and public order (European Parliament & Council, 2019). Directives, such as Directive 2013/34/EU on accounting, require MNCs to engage in transparent reporting, especially regarding taxes and activities in different countries. This directive, together with the Corporate Sustainability Reporting Directive (CSRD) from 2022, strengthens the obligations of large companies to disclose information about environmental, social, and governance (ESG) aspects of their operations (European Commission, 2022). Although legally non-binding, the European Commission's guidelines provide interpretation of regulations and directives. For instance, the Guidelines on the application of state aid rules in relation to tax rulings (2016) were instrumental in cases such as Apple and Amazon, where MNCs benefited from selective tax advantages. The combination of these instruments enables the EU to maintain a balance between the free movement of capital and the protection of public interest, making the legal framework both flexible and effective in addressing the challenges posed by MNCs.

3. Overview of Multinational Corporations by Sector

MNCs are key players in today's global economy, with a presence in nearly every country and significant influence across various industrial and service sectors. Through their extensive operations and investments, these companies shape international market flows, technological development, and consumer habits. In traditional industries, Shell is recognized for its operations in over 70 countries and its dominance in the oil and gas sector, where it is involved in exploration, extraction, and refining of raw materials. Caterpillar, a global leader in construction machinery, operates in more than 180 countries, supplying heavy equipment that drives infrastructure projects worldwide. Nestlé, the Swiss food giant, is active in almost every country, offering thousands of products including bottled water, coffee, and baby food, thus significantly contributing to global food security. In the information and communication technology sector, Apple stands out as a producer of innovative electronic devices with a global market, while a portion of its manufacturing is concentrated in Asian countries, reflecting the complexity of global supply chains. Samsung, the South Korean conglomerate, has expanded its business from electronics to construction and heavy industry, demonstrating a high degree of diversification. Microsoft holds a dominant position in the global software market, offering cloud services and enterprise solutions that are crucial to the digital transformation of numerous companies. The pharmaceutical industry is marked by companies like Pfizer, known for developing vaccines and medicines that have significantly contributed to global health, especially during the COVID-19 pandemic. Swiss company Novartis invests billions in research and development (R&D), operates on nearly every continent, and actively promotes innovation in medicine. In the service sector, Marriott International is a leading hotel chain with a presence in more than 130 countries, while McDonald's, operating in over 100 countries, adapts its products to local tastes and needs, demonstrating its ability to combine global reach with local customization. A look at the top ten multinational corporations by revenue in 2024 further highlights their economic power. Walmart, the world's largest retail chain, recorded revenue of \$648.1 billion, standing out for its workforce size and global distribution networks. Amazon, a leader in e-commerce and cloud services, reported \$574.8 billion in revenue, confirming its dominance in the digital economy. Chinese energy companies, including State Grid, Sinopec, and China National Petroleum, reported revenues ranging from \$420 to \$550 billion, underscoring their crucial role in global energy security. Numerous multinational companies operate in various sectors of the economy in BiH. Among the most prominent are Coca-Cola HBC, Siemens, Ericsson, Philip Morris International, Volkswagen. These companies have significantly influenced the development of the local market, and their operations illustrate different aspects of foreign direct investment in the country. Coca-Cola HBC is one of the leading multinational companies in the beverage production and distribution sector in BiH. These multinational companies demonstrate how BiH has become an attractive destination for foreign investments despite the challenges posed by the complex legal and administrative framework. Their presence contributes to knowledge transfer, job creation, and stimulates the development of infrastructure and markets. Apple is one of the most well-known multinational companies that has had a significant impact on the Irish economy. Ireland became a key base for Apple due to its favorable tax policies, membership in the EU, and availability of a skilled workforce. Since its arrival in Ireland, Apple has become one of the largest employers in the country, employing tens of thousands of people across various business segments, including software development, sales, marketing, and administration. One of the main reasons Apple chose Ireland as its European headquarters is the low corporate tax rate. This tax policy enabled Apple to optimize its global tax burden, which sparked numerous debates regarding the legality and ethics of such practices. The European Commission ordered Apple to pay back approximately €13 billion in unpaid taxes to Ireland, claiming that Ireland's tax arrangements constituted illegal state aid. Both Apple and the Irish government contested this decision, and the case remains subject to ongoing legal proceedings. Apart

from tax issues, Apple's impact on the Irish economy has been positive in terms of job creation and the development of the technology sector. The company has invested substantial funds in research and development, as well as employee education, thereby contributing to the enhancement of Ireland's technological expertise. Apple is also a key investor in Irish infrastructure, particularly in areas such as data centers that support cloud services across Europe. However, Apple's business model in Ireland highlights the complexity of the globalized economy and the challenges in regulating multinational corporations. Ireland uses its tax policies to attract foreign investments, but this has led to tensions with other countries and EU institutions. In conclusion, the Apple case in Ireland illustrates key themes of the modern economy, the role of multinational companies in national economies, the challenges of tax competition between states, and the need for global regulations that ensure a fair distribution of tax revenues and sustainable development.

Conclusion

MNCs play a pivotal role in the contemporary global economy, where their operations transcend national borders and influence economic, social, and legal systems worldwide. Their ability to operate across multiple jurisdictions and through complex organizational structures enables them to efficiently exploit market opportunities, but simultaneously poses significant challenges to existing legal frameworks. These companies often operate through decentralized legal entities that are formally independent but are, in reality, connected under a unified corporate center, raising questions about accountability and transparency in business practices. This complexity and multilayered nature of MNCs' business models present a challenge for legal systems, which are not always capable of timely and adequately addressing their needs and potential abuses. Within the EU, a relatively sophisticated legal framework has been established that provides operational freedom for MNCs while simultaneously introducing oversight and regulatory mechanisms, particularly in areas such as market competition and state aid control. Cases like Apple in Ireland illustrate how tax policies and legal arrangements can become subjects of international legal disputes, sparking broad debates about fairness in tax burdens and the ethics of corporate conduct. These issues are not merely legal but directly linked to economic equality, transparency, and sustainable development. For a legally fragmented country like BiH the challenges in regulating MNCs are even more pronounced. The complexity of the internal legal structure, division of competencies between entities and cantons, and alignment with international standards represent key obstacles to effective control and responsible governance. Nevertheless, given the importance of MNCs for economic development and international integration, it is essential that BiH continues and intensifies the process of harmonizing its domestic legislation with EU legal standards and international recommendations. The recommendations arising from this analysis highlight the need for continuous strengthening of the legal framework through legislative harmonization, institutional capacity building, and promotion of corporate social responsibility. Moreover, international cooperation and information exchange among regulatory bodies should be prioritized, as only through coordinated efforts can transnational capital flows and business operations be effectively monitored and regulated. Additionally, education and raising awareness about the complex legal and economic aspects of MNC operations represent a vital component in fostering a legal culture that supports responsible and transparent business practices. In conclusion, multinational corporations are an indispensable part of the modern economic and legal landscape. Their impact on national economies is multifaceted and can be positive through job creation, technology transfer, and infrastructure investment, but also carries potential risks related to tax avoidance, market competition disruption, and neglect of social responsibility. Legal systems, especially in transitional countries like BiH, must adapt to these challenges by developing transparent, fair, and efficient legal frameworks. Only in this way can sustainable economic development, protection of human rights, and safeguarding of public interests be ensured in an era of globalization and transnational business operations. The democratic processes in BiH owe much to the

support of the USA and the EU, whose contributions significantly help keep BiH on its development path; this stability and political backing also positively impact the operations of MNCs, enabling them to operate in a relatively secure and predictable environment.

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